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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
087926,788	09/10/97	LEWIS	1337,000-R

QM41/0106

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EXAMINER	
SRIVASTAVA, V	
ART UNIT	PAPER NUMBER
3735	4

DATE MAILED: 01/06/99

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/926,788

Applicant(s)

Lewis et al

Examiner

V. Srinivasan

Group Art Unit

3735

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/23/98
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-8 ☒ is/are pending in the application.
- Of the above claim(s) 1-8 ☐ is/are withdrawn from consideration.
- ☐ Claim(s) 1-8 ☐ is/are allowed.
- ☒ Claim(s) 1-8 ☒ is/are rejected.
- ☐ Claim(s) 1-8 ☐ is/are objected to.
- ☐ Claim(s) 1-8 ☐ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The drawings are objected to under 37 CFR 1.83(a) because they fail to show any type of specific shape which would conform to the back of a user as described in the specification and in claim 1. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Claims 1 - 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warncke et al (Pat. # 3,390,676) in view of Berndt (Pat. # 2,831,607).

Warncke et al teach a backframe (H), for self contained breathing apparatus which is illustrated in Figs. 1 and 2, include an air tank and control components. The shell (H) of the backframe which is illustrated in Fig. 2, having shaped to accommodate the components within and shaped to conform to the back of a user as disclosed in Col. 2, lines (37 - 40). Regarding the structure of the backframe having formed of front plate, back plate and side plate, note the structure of Berndt in Figs. 1 - 4. It would have been obvious to one of ordinary skill in the art in view of Berndt to have modified the structure and the components of the backframe of the apparatus of Warncke et al for ease and comfort of a user.

With respect to claims 2 and 3, regarding a buddy breathing hose, note the hose (20) as taught by Warncke et al. How and where the connector is positioned is a matter of design choice and presents no unobviousness.

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Claims 4 - 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warncke et al in view of Berndt as applied to claim 1 above, and further in view of Lundberg (Pat. #5,365,923). However, Warncke et al and Berndt are silent about the details of the control components having an alarm, battery etc., but note the teaching of Lundberg in Col. 1, lines (6 - 15) and lines (59+). It would have been obvious to of ordinary skill in the art in view of Lundberg to have a control system in the apparatus of Warncke et al and Berndt having means for providing a tactile signal from the alarm.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the teachings in patent numbers:

SU 1145-513A;

East German # 866,756, 34,143; and

Switzerland # 432,249

Applicant's arguments filed 10/23/98 have been fully considered but they are not persuasive of any error for the reasons set forth in the above rejection of the amended claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

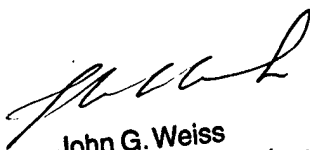
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Srivastava whose telephone number is (703) 308-0959.

vs. SR

December 31, 1998


John G. Weiss
Supervisory Patent Examiner
Group 3700